



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 26, 1996

Ms. D. Kay Woods
Abernathy, Roeder, Robertson & Joplin
P.O. Box 1210
McKinney, Texas 75069-1210

OR96-0413

Dear Ms. Woods:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39082.

The Plano Independent School District (the "district") received a request for information concerning the senior advanced placement English course offered for the 1995-96 school year. The requestor also sought records relating to disciplinary actions against any students currently or previously enrolled in the class. You assert that the records at issue are confidential student records excepted from disclosure under the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g, and sections 552.026 and 552.114 of the Government Code.¹

Please note that this office has recently issued Open Records Decision No. 634 (1995), which concluded: (1) an educational agency or institution may withhold from public disclosure information that is protected by FERPA and excepted from required public disclosure by sections 552.026 and 552.101 without the necessity of requesting an attorney general decision as to those exceptions, and (2) an educational agency or institution that is state-funded may withhold from public disclosure information that is excepted from required public disclosure by section 552.114 as a "student record," insofar

¹The requestor has expressed concern that the district's request for a decision from this office may not have been made within the ten day time frame mandated by chapter 552. Gov't Code § 552.302 (information at issue presumed public if governmental body fails to seek attorney general decision within ten days of open records request). The request for information was received by the district on February 13, 1996 and the postmarked date of the district's request for decision from this office was February 23, 1996. See *Id.* § 552.308 (time requirements met when document is sent by first class United States mail with postage prepaid and bears timely post office cancellation mark). Thus, the district's request for a decision was timely sought from this office.

as the "student record" is protected by FERPA, without the necessity of requesting an attorney general decision as to that exception. Thus, you need not seek a decision from this office as to whether education records must be withheld from disclosure.

However, please note that this ruling applies only to education records under FERPA. "Education records" are records that

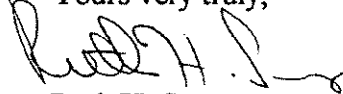
- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

20 U.S.C. § 1232g(a)(4)(A). *See also* Open Records Decision Nos. 462 (1987), 447 (1986). Information must be withheld from required public disclosure under FERPA only to the extent "reasonable and necessary to avoid personally identifying a particular student." Open Records Decision Nos. 332 (1982), 206 (1978).²

We believe that Open Records Decision No. 634 (1995) is dispositive as to the records that you assert are confidential student records. We note that you have raised no other exceptions to disclosure. If you have further questions as to the applicability of FERPA to information that is the subject of an open records request, you may consult with the United States Department of Education's Family Policy Compliance Office. *See* Open Records Decision No. 634 (1995) at 4, n.6, 8.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 39082

Enclosures: Open Records Decision No. 634 (1995)
Submitted documents

²*But see* 20 U.S.C. § 1232g(a)(1)(A), (d) (parent or adult student has affirmative right of access to that student's education records). *See also* Open Records Decision No. 431 (1985) (Open Records Act's exceptions to required public disclosure do not authorize withholding of "education records" from adult student).

cc: Mr. David Mays
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(w/enclosure - Open Records Decision No. 634 (1995))